

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
GREGORY V. PIATT,

CIV 3902 2007

Plaintiff

ANSWER TO COMPLAINT

v.

**DEFENDANTS DEMAND
TRIAL BY JURY**

MARC S. LACHAR AND JOAN B. LACHAR,

Defendants
-----x

Defendants, Marc S. Lachar and Joan B. Lachar, by their attorneys, EUSTACE & MARQUEZ, answer the Complaint of the Plaintiff by stating as follows:

1. Deny, upon information and belief, the allegations of paragraph 5.
2. Deny, upon information and belief, the allegations of paragraph 6.
3. Deny, upon information and belief, the allegations of paragraph 7.
4. Deny, upon information and belief, the allegations of paragraph 8.
5. Deny, upon information and belief, the allegations of paragraph 1 and respectfully refers all questions of law to this Honorable Court.
6. Deny having knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3

and respectfully refers all questions of law to this Honorable Court.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE THESE
ANSWERING DEFENDANTS ALLEGE AS FOLLOWS:**

7. The injuries alleged to have been suffered by the Plaintiff were caused, in whole or part, by the conduct of Plaintiff. Plaintiff's claims therefore are barred or diminished in the proportion that such culpable conduct of Plaintiff bears to the total culpable conduct causing the damages.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE
THESE ANSWERING DEFENDANTS ALLEGE AS
FOLLOWS:**

8. The injuries and damages alleged in the Complaint were caused or contributed to by the culpable conduct including contributory negligence, assumption of the risk and/or product misuse of persons over whom these Defendants had no authority or control.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE THESE
ANSWERING DEFENDANTS ALLEGE AS FOLLOWS:**

9. The Plaintiff failed to mitigate the damages as alleged in the Complaint by failure to wear or use seatbelts, shoulder harnesses, or other restraints or protective devices, at the time and place of the alleged incident, and any award made to or accepted by the Plaintiff must be reduced in such proportion to the extent that the injuries complained of were

caused, aggravated or contributed to by the Plaintiff's failure to use such protective devices.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE
THESE ANSWERING DEFENDANTS ALLEGE AS
FOLLOWS:**

10. The Emergency Doctrine applies to the facts and circumstances of this action.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE THESE
ANSWERING DEFENDANTS ALLEGE AS FOLLOWS:**

11. The Plaintiff is precluded from maintaining this action by Insurance Law Article 51 in that Plaintiff has failed to sustain a serious injury or economic loss greater than the basic economic loss as defined by that law.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE THESE
ANSWERING DEFENDANTS ALLEGE AS FOLLOWS:**

12. That recovery, if any, by the Plaintiff shall be reduced by the amounts paid or reimbursed by collateral sources in accordance with CPLR 4545(c).

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE
THESE ANSWERING DEFENDANTS ALLEGE AS
FOLLOWS:**

13. That if it is determined that these answering Defendants are responsible for the acts alleged in the Complaint then Plaintiff failed to take appropriate action to mitigate any damages.

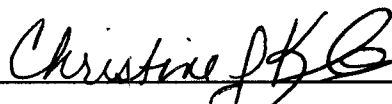
WHEREFORE, these Defendants demand judgment dismissing the Complaint, together with costs and disbursements, and in the event any judgment or settlement is recovered herein against these Defendants, then these Defendants further demand that such judgment be reduced by the amount which is proportionate to the degree of culpability of any plaintiff, and these Defendants further demand judgment against each other party.

DATED: August 23, 2007
White Plains, New York

Yours, etc.,

EUSTACE & MARQUEZ
Attorneys for Defendants
MARC S. LACHAR AND JOAN B. LACHAR
Office and Post Office
Address
1311 Mamaroneck Avenue
3rd Floor
White Plains, New York 10605
(914) 989-6650

By:



Christine J. Klein
(CJK 4713)

To:

Jay S. Hausman & Associates, PC.
Attorneys for Plaintiff, Gregory V. Piatt
280 North Central Avenue
Hartsdale, New York 10530

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
GREGORY V. PIATT,

Index No.: CIV 3902
2007

Plaintiff

NOTICE OF DEPOSITION

v.

MARC S. LACHAR AND JOAN B. LACHAR,

Defendants
-----x

TO: GREGORY V. PIATT

PLEASE TAKE NOTICE, that Defendants, Marc S. Lachar and Joan B. Lachar, by their attorneys, Eustace & Marquez, demands that each adverse party afford us the disclosure which this notice and demand specifies:

A. GREGORY V. PIATT is to appear for deposition upon oral examination pursuant to FRCPV 30:

(1) At this date and time: December 14, 2007 at 10:00 am

(2) At this place: Eustace & Marquez

1311 Mamaroneck Avenue

3rd Floor


White Plains, NY 10605

B. Each deposition witness thus examined is to produce at such time and place, pursuant to FRCPV 30, all books, papers, and other things which are relevant to the issues in the action and within that Adverse party's possession, custody, or control to

be marked as exhibits, and used on the examination.

Dated: White Plains, New York
August 23, 2007

Yours, etc.,
EUSTACE & MARQUEZ
Attorneys for DEFENDANTS
**MARC S. LACHAR AND JOAN B.
LACHAR**
Office and Post Office
Address
1311 Mamaroneck Avenue
3rd Floor
White Plains, New York
10605(914) 989-6650

By: 
Christine J. Klein
(CJK 4713)

TO:

Jay S. Hausman & Associates, PC.
Attorneys for Plaintiff,
Gregory V. Piatt
280 North Central Avenue
Hartsdale, New York 10530

CERTIFICATE OF SERVICE

I hereby certify that on August 23, 2007, I electronically filed the foregoing Answer to Complaint and Notice of Deposition with the Clerk of the SOUTHERN DISTRICT OF NEW YORK using its CM/ECF system, which would then electronically notify the following CM/ECF participants on this case:

**PIATT V LACHAR
CIV 3902 2007**

Jay S. Hausman & Associates, PC.
280 North Central Avenue
Hartsdale, New York 10530

S/Jazmin L. Coyle
Paralegal to
Christine J. Klein
EUSTACE & MARQUEZ
Attorneys for Defendants
Marc S. Lachar and Joan B. Lachar
1311 Mamaroneck Avenue
3rd Floor
White Plains, New York 10605
(914) 989-6650

Before me on August 23,
John M. Kelly
 Notary Public, State of New York
 No. 01KE0049180
 Qualified in Rockland County
 Commission Expires *10/6/10*

CIV 3902 2007

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GREGORY V. PIATT,

Plaintiff

against

MARC S. LACHAR AND JOAN B. LACHAR,

Defendants

ANSWER TO COMPLAINT AND NOTICE OF DEPOSITION

EUSTACE & MARQUEZ
Attorneys for Defendants
Marc S. Lachar and Joan B. Lachar
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1311 Mamaroneck Avenue
3rd Floor
White Plains, New York 10605
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